HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(20)

मामला क्रमांक M.A(C) 1258 **सन्** 2007

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
		M.A(C) No.1258 of 2007
	Appellants	1. Lakhanlal Kashyap, S/o Late Chheduram Kashyap, aged 45 years. 2. Smt. Janki Bai Kashyap, S/o Shri Lakhan Lal Kashyap, aged about 42 years. 3. Ku. Anusuiya, D/o Lakhan Lal Kashyap, aged about 17 years. 4. Ku. Parvati, D/o Lakhan Lal Kashyap, aged about 16 years. 5. Manoj Kumar, S/o Lakhan Lal Kashyap, aged about 15 years. Appellant No.3 to 5 minors, through natural guardian father Lakhan Lal Kashyap, appellant No.1 All resident of Village and Post Pakariya (Jhulan), Tahsil and P.S. Pamgarh, District Janjgir-Champa (C.G.)
		Versus
	RESPONDENTS	1 Krishna Das, S/o Sukritdas @ Sudhudas Manikpuri, R/o Chandipara, Pamgarh, District Janjgir-Champa (C.G.) (Driver of Vehicle Metador No.CG.-10/A/9247). 2 Manoj Jaiswal, S/o Tarachandra Jaiswal, R/o Kukardih Kera (Chilhati), Post Mainkchaura, District Bilaspur (C.G.) (Registered Owner of Vehicle Matador No.C.G.-10/A/924). 3 The Oriental Insurance Company Limited, Through : Divisional Manager, Divisional Office Office Bus-Stand, Bilaspur, District Bilaspur (C.G.)

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(2)

मामला क्रमांक M.A.(C) 1258/07 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Misc. Appeal u/s 173 of the Motor Vehicles Act.

Appearance:
Shri Gautam Khetrapal, Counsel for the appellants.

D.B: Hon'ble Shri Justice L.C. Bhadoo, J &
Hon'ble Shri Justice Sunil Kumar Sinha, J.

ORAL ORDER
(06.11.2007)

L.C.Bhadoo, J,

Heard on admission.

The claimants, who are father, mother, sisters and brother of the deceased – Vinod have preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 for enhancement of the compensation amount, being aggrieved by the award dated 5/4/2007 passed by the Second Additional Motor Accident Claims Tribunal, Bilaspur (C.G.) in Claim Case No.25/2006, whereby, the learned Tribunal after assessing Rs.15,000/- per year as the income of the deceased deducted 1/3rd amount of the said income, which was being incurred by the deceased as his personal expenditure and assessed loss of dependency to the tune of Rs.10,000/- per year. By applying multiplier of 18, the Tribunal determined the total dependency to the tune of Rs.1,80,000/- Apart from this, Rs.5000/- has been awarded under the head of funeral expenses, Rs.15,000/- under the head of love and affection, Rs.5000/- under the head of loss of estate and thereby, in all, an award to the tune of Rs.2,05,000/- has been passed.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.A. (C.C.) – 1258/07 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

We have heard learned counsel for the appellants on admission.

Learned counsel for the appellants submits that the deceased had a cycle repairing shop through which, he used to earn Rs.100-150/- per day, therefore, the income has wrongly been assessed.

Having heard learned counsel for the appellants, we have perused the impugned award.

The learned Tribunal in para 10 and 13 of the award has given reasoning that no documentary evidence or any other material has been produced by the claimants in order to establish that the deceased was running a cycle repairing shop. The learned Tribunal has taken into consideration the oral evidence of Lakhan Lal Kashyap, father of the deceased and one more witness – Shivshankar, who have been examined, and held that their evidence does not inspire confidence to hold that the deceased was running the cycle repairing shop.

The finding of the Tribunal is based on sound reasoning and we do not find any illegality or infirmity in the said judgment. The Tribunal has assessed the income of the deceased as Rs.15,000/- per year on notional income basis and the finding of the Tribunal is correct.

In view of the above, the appeal being devoid of merits is liable to be dismissed and is accordingly dismissed.

Sd/-
L.C. Bhadoo
Judge

Sd/-
Sunil Kumar Sinha
Judge

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